



37-007

HOUSE OF COMMONS BOOK

LIVRE DE LA CHAMBRE DES COMMUNES

Date: 1998 10 14

Agency -
Organisme CSIS/SCRS

Issue/points:

Name: Joseph Fluke

Issue: Crown Attorney withdraws charges against former CSIS employee

Media: Globe and Mail 1998 10 14

Source: CSIS INTERNAL

Assessment-Evaluation

Classification

unclassified

Point at Issue:

Citing minimal chances of conviction, the Crown Attorney has decided to withdraw all charges against former CSIS employee, Joseph Fluke.

Background:

Following an investigation by the RCMP, Joseph Fluke was charged, in September 1998, with several offenses relating to his improper acceptance of gifts (Section 121 (c) CC), while employed by the government.

The alleged offenses took place while Fluke was employed as an investigator with CSIS. Fluke has since resigned from the Service.

In continuing its coverage of this story, the *Globe and Mail*, 1998 10 14, reported that all charges against Fluke were formally withdrawn by the Crown Attorney on 1998 10 13. The Crown advised the court that the withdrawal application was based, in part, on witness credibility issues.

Statutory Restrictions/Contraintes juridiques:

NONE

Suggested Reply - Réponse suggérée

Questions related to CSIS:

There was full cooperation between CSIS and the RCMP during the course of this investigation.

Questions concerning the withdrawal of the criminal charges:

The decision not to proceed with these charges was made by the Provincial Crown Attorney.

Questions concerning a SIRC review of the allegations against Fluke:

I have been advised that the Security Intelligence Review Committee will be looking into this matter.

Prepared by - Préparé par

MRL/SMP

Tel. No. - N° de tél.

231-0023

Approved by - Approuvé par

Tel. No. - N° de tél.



36-058B

HOUSE OF COMMONS BOOK

LIVRE DE LA CHAMBRE DES COMMUNES

Date: 1998 09 09

Agency -
Organisme: CSIS/SCRS

Issue/points:

Name: JOSEPH FLUKE

Issue: RCMP LAY ADDITIONAL CHARGES AGAINST FORMER CSIS EMPLOYEE

Media: Globe and Mail 1998 09 03/05

Source: CSIS - Internal

Assessment-Evaluation

Classification

Protected - Protégé

Point at Issue:

RCMP lay additional criminal charges against Joe Fluke, former CSIS employee.

Background:

Joe Fluke, a former CSIS employee, has now been charged with a total of five criminal offenses. Mr. Fluke was originally charged with accepting a gift, Sec. 121 (c) CCC, and with possession as a result of accepting a gift, Sec. 354 CCC.

On 1998 09 05 the Globe and Mail reported that the RCMP had registered an additional three charges against Fluke. Although the media reporting does not specify the charges. The court records indicate the following Criminal Code sections, 121(1)(c) (accepting gifts in excess of \$5,000.00) 2, counts and 354(1)(a) (accepting gifts not in excess of \$5,000.00).

The Globe and Mail, 1998 09 03, carried a more detailed account of Fluke's background along with quotes from former Service employees and others who were familiar with Fluke's work in the Russian emigre community.

Fluke will appear in court again on 1998 09 25, and is expected to enter a plea at that time.

Statutory Restrictions/Contraintes juridiques:

Privacy Concerns - Matter before the Courts

Suggested Reply - Réponse suggérée

Questions concerning RCMP investigation of former CSIS employee:

There was full cooperation between the RCMP and CSIS on this investigation. As the matter is currently before the courts, it would be inappropriate for me to comment at this time.

Questions concerning CSIS investigation of "Russian Nationals"

I will not comment on the operational activities of the Canadian Security Intelligence Service or on any aspect of these allegations.

Questions concerning the release of CSIS information to the courts

Provisions of The CSIS Act and the Canada Evidence Act clearly identify Parliament's recognition of the need to balance national security requirements and the openness of the judicial process. The disclosure of sensitive information held by CSIS in civil or criminal proceedings is assessed on a case by case basis.

Prepared by - Préparé par

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T. J. [Signature]

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Ex-CSIS agent charged with receiving benefit

Man who was described as seeming 'a perfect spy' was head of Russian desk in Toronto

ESTABLISHED SOURCE
BY JOHN SAUNDERS
The Globe and Mail, Toronto

A federal intelligence agent was under suspicion more than nine months ago of betraying secrets about criminal investigations, at least one of which involved his former Russian businessman, an RCMP search warrant above.

The warrant, discovered in a Toronto chief-court file, contains numerous allegations against Joseph Fuba, former head of the Russian desk in the Toronto office of the Canadian Security Intelligence Service.

Mr. Fuba himself suggests he has been left out in the cold by his employers, the classic fate of the "phony victim," and says he will not "play victim."

He was charged last month with two comparatively minor offences, both involving less than \$5,000 worth of goods he is alleged to have accepted from a Canadian-born businessman without official approval. He may face new charges as soon as tomorrow, when he is to make a second court appearance.

The warrant, issued in November, authorized police to search for evidence of obstruction of justice, conspiracy to commit breach of trust and other offences suspected

to have taken place in locales ranging from Toronto to Moscow between 1982 and 1987.

The case raises questions about internal security at CSIS, a civilian agency created in 1984 to replace the trouble-prone RCMP security service, and about the relations of CSIS with the RCMP and other police and intelligence agencies.

Officially, CSIS, which has never before had to deal in public with a corruption case involving one of its officers, has maintained silence on the case, as have the Mounties, some of whose criminal investigations may have been compromised thereby. Information-sharing with the RCMP, it is not clear what triggered the investigation, but relations between the two organizations have not always been cordial. Mr. Fuba is a former RCMP officer who joined CSIS around the time it was formed.

In the criminal court, documents related to the search warrants used in the case have been sealed for what police said are national-security reasons. A copy of one search warrant has been filed as evidence in a long-running lawsuit between Toronto-area businessmen with interests in Russia, some of whom are now deceased.

Although Mr. Fuba did not work undercover, his job entailed getting close to such businessmen. His name has come up repeatedly in the lawsuit, sometimes in ways that suggest that he participated in business dealings while he kept an official eye on the businessmen.

"He was as close to the centre of Russian stuff as anybody could be," said one law-enforcement official specializing in Eastern European organized crime. "This case has the ability to shake the whole [CSIS] establishment to the core if everything turns out."

At age 44, the twice-divorced Mr. Fuba is described by some who know him as a bright, determined investigator, a hard-drinking con-

science of night life, and a man who "seemed almost like a perfect spy." But his intelligence career appears to be over. CSIS, which supervised him last fall when the search warrants were issued, finds him as retired.

In a series of brief telephone conversations with The Globe and Mail this week, Mr. Fuba hinted that "much more is to be revealed."

"Two sides to every story," he mused, later adding: "The only problem is, in that old business, you know, there's usually three or four sides." Still later, he said: "I respect the organization I came from very much. I believed much in it. I'd play victim for a while, but not for all time."

He gets sympathy on that score from at least one of his former bosses, Semyon Samokhin, now director of security for the Royal Bank of Canada. The intelligence business "seems to have a lot of layers," said Mr. Samokhin, an RCMP and CSIS veteran who ran the civilian agency's Toronto office in the late 1980s. "I mean, you just keep peeling back. What you see is not necessarily what's taking place."

Victim or perpetrator, Mr. Fuba long seemed a model CSIS officer, although he displayed a certain lack of polish as a beginner, starting up Toronto's literary set in 1984 by demanding details of contacts with Eastern European cultural attachés.

One newspaper account at the time assumed that "Joe Fuba" was a cover name. In fact, Mr. Fuba comes from the Hamilton family that founded Fuba Transport, a drifting Southern Ontario truck line with a tongue-in-cheek slogan: "It's on time. It's a Fuba."

He earned a master's degree in political science and travelled in Russia while working for CSIS, but his job after the Cold War ended appears to have had less to do with following foreign spies than with trying to keep members of a burgeoning post-Communist criminal class out of Canada.

Mervin Green, a prominent Toronto immigration lawyer, recalled him as "a tough guy, a very aggressive guy" in interviews with visa applicants. "He always impressed me as being so knowledgeable that I told my clients they had to assume that he knew the answer to any question he asked."

To Mr. Green, Mr. Fuba seemed a nearly perfect spy: smart, informed and "very well groomed. You know, compared to our local cops, these [CSIS] guys dress like businessmen. Not just Fuba, all of them."

Whatever his wardrobe, Mr. Fuba would have been earning about \$62,000 a year as a long-serving CSIS investigator.

He has a seven-year-old daughter, whose mother, a math teacher and part-time aerobics instructor, described Mr. Fuba as a devoted, attentive father.

Mr. Fuba and his former wife were married in 1986, a year after his first divorce went through. They lived in a \$235,000 house in suburban Oakville that they sold in 1994, the year before they divorced. Mr. Fuba now lives in a new 1,000-square-foot downtown Toronto condominium.

So far, the only charges against him relate to modest household items he is alleged to have accepted illegally: a bed, a coffee table, a stu-

two sets, a television bench and a child's play seat worth less than \$1,000 in total.

He is not accused of taking bribes, but a government employee is not allowed to accept a benefit from someone dealing with the government without official permission, regardless of the gift's modesty.

In this case, the alleged gift is Nathan Jacobson, a Winnipeg-born entrepreneur who controlled a string of General Motors dealerships in Russia but abandoned them by his own account, after modern failed one of his marriages and died to matches in a his partner.

Now operating from Toronto, Mr. Jacobson, 43, stressed in an interview that he has not been charged with any crime, and that the RCMP have assured him he will not be.

He complained that he has lost millions of dollars worth of stakes in one of his current businesses — building Western-style gas-station stores in Russia — because an unfavorable report about him went into a federal computer system, preventing him from getting visas for Russian businessmen to inspect Canadian facilities. He blamed Mr. Fuba for the report.

Whatever Mr. Fuba did as an intelligence agent, he shows up as a key figure in a lawsuit filed by Mr. Jacobson against two Ontario businessmen, Oleg Ching and Darren Brown of Blackford Hill, and a private company they run. Mr. Jacobson claims they broke a verbal contract giving him a one-third share of profits on dealings in Russian-made biolopes used as filters in medical, scientific and industrial applications.

Questioned under oath last year, Mr. Jacobson portrayed Mr. Fuba as understanding to enforce the deal. "Joe Fuba had told me that I could trust these people and that he knew them and that he would ensure that the business was done properly and no agreements were necessary. Because he would make sure," every-one would honour the deal. Mr. Jacobson said.

Mr. Ching and Mr. Brown said they had no profit-sharing arrangement with Mr. Jacobson and accused him of filing a mischievous suit. Asserting that Mr. Jacobson "is the subject matter of an RCMP investigation," Mr. Brown has filed in court a copy of the warrant presented by Mounties who searched his company's offices, among other places, on Nov. 20.

The warrant contains a series of allegations against Mr. Fuba, none of them tested in court. Among other things, it says he was suspected of accepting money and goods corruptly from Mr. Jacobson, and of conspiring with Mr. Jacobson and others in Moscow and elsewhere to betray confidential CSIS information about criminal investigations.

The warrant authorizes police to seize documents "in any way linked" to Mr. Fuba and a long list of people, including Mr. Jacobson, Mr. Ching, Mr. Brown and various Russian emigres. With the exception of Mr. Fuba, there is no indication that any of these people are now suspected of criminal offences.

THE PRIVACY ACT AND/OR THE INFORMATION ACT
LA LOI SUR LA PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU LA LOI SUR L'ACCÈS À L'INFORMATION

CSIS agent charged with fraud TORONTO, ONT.

(CP/GLOVE AND MAIL 98/09/04) - A former federal intelligence agent specializing in Russian affairs faces three additional corruption charges. Joseph Fluke, former head of the Russian desk in the Toronto office of the Canadian Security Intelligence Service, was charged Friday with accepting the use of a downtown Toronto apartment, a cell phone and a car from Toronto-area residents doing business with Russia. Earlier, Fluke was charged with accepting household furniture worth less than \$5,000 and being in possession of property obtained by crime. Under the Criminal Code, these charges are referred to as fraud against the government because they deal with a government employee accepting a benefit from someone dealing with the government without official permission, regardless of the giver's motives. Fluke, 44, is also charged with a second count of having property obtained by crime. The new charges were entered into the court record Friday. Fluke has been ordered to return to court Sept. 25. His lawyer, Owen Wigderson, declined to comment. If the case goes to trial, it threatens to expose some of the inner workings of the notoriously secretive spy service. In order to prove that as a government employee he accepted benefits without the consent of his superiors, presumably they would have to be called to testify. Although rarely, CSIS agents have been called to testify in criminal court before, in proceedings related to the Air-India bombing case, for example. Even then, CSIS had great concerns about revealing too much. Fluke, a former RCMP officer who joined the civilian spy agency shortly after it was created in 1984 to replace the RCMP Security Service, was suspended as a CSIS investigator last fall upon the execution of search warrants.

“PROCESSED UNDER THE
PROVISIONS OF THE PRIVACY ACT AND/OR
ACCESS TO INFORMATION ACT”
« RÉVISÉ EN VERTU DE LA LOI SUR LA
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ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION »

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Ex-CSIS agent to answer more charges

98-04-05
Russian specialist alleged to have accepted use of apartment, car, phone

ESTANISLAO OZIEWICZ
The Globe and Mail, Toronto

A former federal intelligence agent specializing in Russian affairs faces three additional corruption charges.

Joseph Fluke, former head of the Russian desk in the Toronto office of the Canadian Security Intelligence Service, was charged yesterday with accepting the use of a downtown Toronto apartment, a cellphone and a 1998 Pontiac from Toronto-area residents doing business with Russia.

Earlier, Mr. Fluke was charged with accepting household furniture worth less than \$5,000 and being in possession of property obtained by crime.

Under the Criminal Code, these charges are referred to as fraud against the government because they deal with a government employee accepting a benefit from someone dealing with the government without official permission, regardless of the giver's motives.

Mr. Fluke, 44, is also charged with a second count of having property obtained by crime.

The new charges were entered into the court record yesterday. Mr. Fluke has been ordered to return to court Sept. 25. His lawyer, Owen Wigderson, declined to comment.

If the case goes to trial, it threatens to expose some of the inner workings of the notoriously secretive spy service. In order to prove that as a government employee he accepted benefits without the consent of his superiors, presumably they would have to be called to testify.

(One law-enforcement source



Joseph Fluke, former CSIS officer who has been linked to Russian business interests.

said this is one reason — apart from the obvious embarrassment to the organization and implications for national security — that there is immense trepidation at CSIS headquarters about the prospect of public court hearings.

As far as is known, no other CSIS investigator has ever been charged criminally in relation to his duties, which in Mr. Fluke's case included vetting prospective immigrants from the former Soviet Union.

Although rarely, CSIS agents have been called to testify in criminal court before, in proceedings related to the Air-India bombing case. Even then, CSIS had great concerns about revealing too much.

In one trial related to the Air-India investigation, the judge permitted a CSIS witness to testify without being identified by name. In one connected preliminary hear-

ing, a CSIS official presented the judge with an order that halted the testimony of a CSIS investigator on two occasions when the official deemed national security would be harmed if the defence learned the answers to some questions.

Mr. Fluke, a former RCMP officer who joined the civilian spy agency shortly after it was created in 1984 to replace the RCMP Security Service, was suspended as a CSIS investigator last fall upon the execution of search warrants.

A copy of one such warrant said that, among other things, the RCMP were looking for evidence that Mr. Fluke had betrayed secrets about criminal investigations, at least one of which involved immigrant Russian businessmen.

The new charges allege Mr. Fluke accepted the use of a downtown Toronto apartment (the benefit of which is valued at more than \$5,000) between September, 1995, and September, 1996, from Roman Dacyshyn, Oberon Cheng and Nathan Jacobson.

Mr. Dacyshyn, who died in May, 1996, was an entrepreneur based in the Hamilton area with extensive business dealings in the former Soviet Union, which included sports, culture and trade in items such as bulletproof vests.

Mr. Cheng runs a company in Richmond Hill, Ont., that specializes in Russian-made isotopes used as tracers in medical, scientific and industrial applications.

Mr. Jacobson is a Winnipeg-born entrepreneur with extensive business in Russia, including attempts to establish Western-style gasoline stations there.

LA LOI SUR LA
PROTECTION DES RENSEIGNEMENTS PERSONNELS
ET/OU DE LA LOI SUR L'ACCÈS À L'INFORMATION »

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36-013

HOUSE OF COMMONS BOOK

LIVRE DE LA CHAMBRE DES COMMUNES

Date: 1998 11 05

Agency: CSIS/SCRS
Organisme:

Issue/points:

Name: Nathan Jacobson / Joe Fluke

Issue: Attorney General and CSIS Employee Named in Civil Lawsuit

Media: Toronto Star / Canadian Press

Source: CSIS INTERNAL

Assessment-Evaluation

Classification

Unclassified - Non-classifié

Point at Issue:

A Toronto area businessman, Nathan Jacobson, alleges that current and former CSIS employees have unfairly damaged his reputation. Jacobson has filed a six million dollar civil action.

Background:

On 1998 11 05, the Toronto Star reported that lawyers representing Nathan Jacobson had initiated a civil action alleging that while employed with CSIS, Joseph Fluke and another CSIS employee identified only as "John Doe" had caused damage to his personal and business reputation.

The suit also alleges that Fluke had suggested that negative reports could be used to block visa applications made by Jacobson relative to his business dealings with Russian citizens he was assisting to enter Canada.

The Toronto Star article noted that while assigned to the Russian Desk at the CSIS office in Toronto, Fluke had come under investigation by the RCMP. Criminal charges against Fluke resulting from this investigation were recently withdrawn by the Provincial Crown Attorney.

Statutory Restrictions/Contraintes juridiques:

None

Suggested Reply - Réponse suggérée

Questions related to CSIS:

As the matter is currently before the courts it would be inappropriate for me to comment at this time

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1998-12-07

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T.J. BRADLEY, ADS/DAS

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Spy agency sued for calling man a criminal

BY DALE ANNE FREED
AND CAL MILLAR
STAFF REPORTERS

A prominent Toronto businessman claims Canada's spy agency, on its intelligence computer system, falsely branded him a criminal with links to Russian mobster.

Nathan Jacobson, president of West Group Resources, has launched a \$6 million lawsuit against a former Canadian Security and Intelligence Service agent, the attorney-general of Canada and the president of a Vancouver-based company.

Jacobson, 43, wants the federal government to remove any inaccurate reports about him from its computer network system.

NEGATIVE REPORTS

The civil action filed by lawyers yesterday on behalf of Jacobson in Ontario Court, general division, claims Joseph Fluke, 44, while assigned to the CSIS Russian desk in Toronto, suggested that negative reports could be placed in central computer banks that would scuttle Jacobson's attempts to get visas for any Russian business people he wanted to bring to Canada.

The lawsuit claims a CSIS agent, identified only as John Doe, told a Vancouver businessman it would be ill-advised to appoint Jacobson as president or director, because it could create a scandal.

The CSIS agent told the businessman that "Jacobson is heavily involved in criminal activities, specifically, narcotics, representing the Russian mafia in Canada, bringing over Russian members of the mafia to Canada and other criminal activities," the lawsuit alleges.

Jacobson said in an interview his company has lost millions of dollars because of the false information.

"I continue to be concerned for my business and personal safety," Jacobson said.

The allegations in the lawsuit have not yet been proven.

Fluke, who took early retirement from CSIS and was investigated by the RCMP, refused comment.